

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Tetsuo YAMAGUCHI et al.

Art Unit: 3694

Appln. No. : 10/069,106

Examiner: GOTTSCHALK, Martin

Filed : June 4, 2002

Confirmation No.: 1743

For : INFORMATION SUPPLY SYSTEM

ELECTION WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Examiner's restriction requirement of June 5, 2007, the time set for response being one month from the mailing date from the U.S. Patent and Trademark Office, *i.e.*, July 5, 2007, Applicants hereby elect the invention of Group IV, including claims 30-32. The above election is made with traverse for the reasons set forth hereinbelow.

In the Official Action of June 5, 2007, the Examiner indicated that all claims (1-32) were subject to restriction under 35 U.S.C. § 121. The Examiner restricted the claimed invention into Group I comprising claims 1-17, drawn to a system, method and/or computer-readable medium for ranking information based on numeric values and a weighting associated with the information classified in class 705, subclass 1; Group II comprising claims 18-21, drawn to a system for ranking Information based on location and other associated information classified in class 705, subclass 1;

Group III comprising claims 22-29, drawn to a system and for method for supplying information based on a ranking of weighted information associated with a location, classified in class 705, subclass 1; and Group IV comprising claims 30-32, drawn to a system, method, and/or computer-readable medium for displaying ranked information classified in class 705, subclass 1. The Examiner asserted that the three groups were related as subcombinations usable together in a single combination.

Applicants respectfully traverse the Restriction Requirement and submit that it is inappropriate. The Examiner's attention is initially directed to MPEP 806.05(c) which explicitly states that “[t]o support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary” (emphasis added). In this regard, the Restriction Requirement does not establish two-way distinctness as required under MPEP 806.05(c) for a proper Restriction Requirement based on an identification of combination and subcombination inventions.

The Examiner's attention is also respectfully directed to MPEP 803 which explicitly sets forth that “if the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.” However, the Examiner has not addressed the required issue of “serious burden.” The Examiner has thus failed to provide an “appropriate explanation” of such burden, as set forth in M.P.E.P. § 803. That is, according to M.P.E.P. § 803, “an appropriate explanation” must be advanced by the Examiner as to the existence of a “serious burden” if the restriction requirement were not required. Further, the United States Patent and Trademark Office allows and even encourages Applicants to submit claims of varying scope. In this regard, the

Restriction Requirement does not establish the existence of a "serious burden" if examination of all identified Inventions were required. Accordingly, it would appear that examination all identified Inventions would not impose any burden on the Examiner.

Accordingly, for each of the above reasons, it is respectfully submitted that the Restriction Requirement is inappropriate. For these reasons, and consistent with office policy as set forth in MPEP 803 and 806.05(c), Applicants respectfully request reconsideration and withdrawal of the Restriction Requirement.

For all of the above reasons, the Examiner's restriction is believed to be improper. Nevertheless, Applicants have elected, with traverse, the invention defined by Group IV, in the event that the Examiner chooses not to reconsider and withdraw the restriction requirement.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Katsuyuki NAKADA et al.



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July 5, 2007
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